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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/820,720

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Sheng-Hsuan Liao

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EXAMINER

NGUYEN, PHUNG HOANG JOSEPH

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

09/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--|------------------------------------|--|
| Office Action Summary | Application No. 10/820,720 | Applicant(s) LIAO ET AL. | |
| | Examiner PHUNG-HOANG J. NGUYEN | Art Unit 2614 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment filed 6/19/2008 has been entered. Claims 1, 2-8, 10-11 have been amended. Claims 9 and 12 have been cancelled. No new claims have been added. Claims 1, 2-8, 10-11 are still pending in this application, with claim 1 being independent.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or

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patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2-8, 10-11 of the present invention application (Serial # 10/820,720) are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of Patent number 7,042,853. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 2-8, 10-11 of the present invention are similar in scope to claims 1-12 of Patent number 7,042,853 with obvious wording variations. For example:

| Claims 1, 2-8, 10-11 of the present invention application (Serial # 10/820,720) | Claims 1-12 of Patent number 7,042,853 |
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| <p>Claim 1: An interactive 2-way transfer multimedia messaging service method comprising:</p> <p>sending a user send~ at least one multimedia message, by a user;</p> <p>receiving the at least one multimedia message by a multimedia messaging service center and sending the at least one multimedia message to a multimedia messaging service dispatcher;</p> <p>obtaining the multimedia messaging service dispatcher obtains an address of a service provider, by the multimedia messaging service dispatcher,</p> | <p>Claim 1: An interactive 2-way transfer multimedia messaging service, which processes interactive transmissions according to a multimedia message sent by a user comprising:</p> <p>a multimedia messaging service center for receiving multimedia messages from the user and transmitting multimedia messages to the user, the multimedia message sent by the user including a sender's address and a service code, the multimedia messaging service center obtaining a designated session and service according to the service code; a service provider for providing</p> |

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| <p>according to the at least one multimedia message, contacting the service provider, and obtaining multimedia content from the service provider; wherein the step of contacting the service provider is performed using eXtensible Markup Language (XML); and</p> <p>transforming a common service platform transforms the multimedia content into at least one multimedia message reply, by a common service platform, and sending the reply to the user via the multimedia messaging service center</p> <p>wherein the step of obtaining the multimedia content from the service provider and sending the reply to the user is performed using XML</p> <p>4. The interactive 2-way transfer multimedia messaging service method of claim 1, whereby the at least one multimedia message sent by the user comprises a user's address and a service code.</p> <p>5. The interactive 2-way transfer multimedia messaging service method of claim 4, whereby the multimedia messaging service center obtains at least one session and service datum according to the service code.</p> <p>Claim 3. The interactive 2-way transfer multimedia messaging service method of claim 1, whereby the user uses a mobile phone to send the at least one multimedia message.</p> <p>Claim 7. The interactive 2-way transfer</p> | <p>multimedia content; a multimedia service dispatcher for contacting the service provider and requesting multimedia content; whereby the multimedia service dispatcher identifies the service provider according to the multimedia message sent by the user; and a common service platform for receiving multimedia content sent by the service provider, and transforming the content into a multimedia message reply; whereby the multimedia message reply is sent to the multimedia messaging service center which sends the reply to the user.</p> <p>Claim 6. The interactive 2-way transfer multimedia messaging service of claim 1, whereby the multimedia messaging service dispatcher uses XML to connect to the service provider.</p> <p>Claim 9. The interactive 2-way transfer multimedia messaging service of claim 1, whereby the common service platform and the service provider use XML to transmit information.</p> <p>Claim 2. The interactive 2-way transfer multimedia messaging service of claim 1, whereby the user uses a mobile phone to send multimedia messages.</p> <p>Claim 4. The interactive 2-way transfer</p> |
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| <p>multimedia messaging service method of claim 5, whereby the multimedia messaging service dispatcher obtains a Uniform Resource Locator the designated (URL) corresponding according to the at least one multimedia message containing the at least one session and service datum sent by the multimedia messaging service center and then connects to service provider corresponding to the URL.</p> <p>Claim 8. The interactive 2-way transfer multimedia messaging service method of claim 1, whereby the multimedia messaging service dispatcher uses Hypertext Transfer Protocol (HTTP) to connect to the service provider.</p> <p>Claim 11. The interactive 2-way transfer multimedia messaging service method of claim 1, whereby the common service platform and the service provider use HTTP to transmit the multimedia content and the at least one multimedia message reply to the user information.</p> <p>Claim 6. The interactive 2-way transfer multimedia messaging service method of Claim 5, whereby the multimedia messaging service center comprises a database with a reference list corresponding to the at least one of sessions and services datum.</p> <p>Claim 10. (Currently Amended) The</p> | <p>multimedia messaging service of claim 1, whereby the multimedia messaging service dispatcher obtains a service provider's URL according to the multimedia message comprising the session and service sent by the multimedia messaging service center, and then contacts the service provider.</p> <p>Claim 5. The interactive 2-way transfer multimedia messaging service of claim 1, whereby the multimedia messaging service dispatcher uses HTTP to connect to the service provider.</p> <p>Claim 8. The interactive 2-way transfer multimedia messaging service of claim 1, whereby the common service platform and the service provider use HTTP to transmit information.</p> <p>Claim 3. The interactive 2-way transfer multimedia messaging service of claim 1, whereby, the multimedia messaging service center comprises a database of designated sessions and services.</p> <p>Claim 7. The interactive 2-way transfer</p> |
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| interactive 2-way transfer multimedia messaging service method of claim 1, whereby the common service platform sends the at least one multimedia message reply comprising a user's address and the multimedia content to the user via the multimedia messaging service center. | multimedia messaging service of claim 1, whereby the common service platform sends a multimedia message reply comprising a sender's address and the multimedia content to the user via the multimedia messaging service center. |
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From the above evidence, it is clear that the claim limitations of the present invention are clearly covered by the limitations of the Patent number 7,042,853.

INQUIRY

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG-HOANG J. NGUYEN whose telephone number is (571)270-1949. The examiner can normally be reached on Monday to Thursday, 8:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571 272 7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CURTIS KUNTZ/
Supervisory Patent Examiner, Art Unit 2614

/Phung-Hoang J Nguyen/
Examiner, Art Unit 2614
Date: 8/28/2008